

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
TRUSTEES OF THE BUILDING TRADES
EDUCATIONAL BENEFIT FUND, THE
BUILDING TRADES ANNUITY BENEFIT
FUND, BUILDING TRADES WELFARE
BENEFIT FUND, and BUILDING TRADES
PENSION FUND,

Plaintiffs,

-against-

CULVER ELECTRIC, LLC,

Defendant.
-----X

**ORDER ADOPTING REPORT
AND RECOMMENDATION**
17-CV-3448 (DRH)(SLT)

Presently before the Court is the Report and Recommendation of Magistrate Judge Steven L. Tiscione, dated November 3, 2020 (the “R&R”), recommending that Plaintiffs’ motion for default judgment to the extent that Plaintiffs be awarded damages as follows: \$1,344,617.79 in unpaid contributions, \$268,923.56 in liquidated damages, \$4,934.83 in audit fees, \$2,600 in attorney’s fees, and \$477.75 in costs, for a total damage award of \$1,621,553.93. Plaintiffs have filed a document entitled “Objection” to the R&R requesting that the Court reconsider the R&R’s conclusion as it pertains to the awarding the interest because in its motion papers plaintiff’s auditor erroneously calculated interest only through July 2018, the audit completion date.

Errors made in a party’s moving papers are not an appropriate basis for an objection by the moving party. However, rather than deny the objections and so as to allow the Plaintiffs to correct their alleged error, the Court adopts the R&R insofar as it recommends granting a default

judgment on liability and denies that portion of the motion for a default judgment as to damages without prejudice to Plaintiff making a renewed motion for damages within twenty (20) days of the date hereof.

SO ORDERED.

Dated: Central Islip, New York
November 24, 2020

s/ Denis R. Hurley
Denis R. Hurley
United States District Judge